

Before the Division of Water Resources
Department of Public Works
State of California

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In the Matter of Application 10274 of Artie E. and Donald E. Griffith
to Appropriate from Rush Creek, Brown Creek and Long Gulch,
Tributaries of Trinity River in Trinity County
for Mining and Domestic Purposes

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Decision A. 10274 D. - 493

Decided *September 18, 1942*

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APPEARANCES AT INVESTIGATION CONDUCTED AT THE SOURCES OF THE
PROPOSED APPROPRIATIONS ON JUNE 3, 1942.

For Applicants

Artie E. and Donald E. Griffith

No appearance

For Protestants

Arbuckle Bros.

A. A. Arbuckle

For Division of Water Resources

A. S. Wheeler, Assistant Hydraulic Engineer, for Harold Conkling, Deputy State Engineer in Charge of Water Rights, Division of Water Resources, Department of Public Works, State of California.

O P I N I O N

General Description of Project

Under Application 10274, filed by Artie E. and Donald E. Griffith on August 27, 1941, it is proposed to divert 1 cubic foot per second from Rush Creek at the intake of the "Old Rush Creek Ditch" within the SE₄ of SW₄ of Section 9, T 34 N, R 9 W, M.D.B.M. and to convey the water through this ditch to Brown Creek at a point within the NW₄ of NW₄ of Section 21, T 34 N, R 9 W, M.D.B.M. where the water will be dumped into Brown Creek and allowed to flow down this creek to the point of diversion on Brown Creek near the center of Section 28, T 34 N, R 9 W, M.D.B.M.

At this point described as being within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 28, 1 cubic foot per second will be added to the amount diverted from Rush Creek and the total amount will be diverted by ditch to Long Gulch at a point within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 33, T 34 N, R 9 W, M.D.B.M., at which point an additional 1 cubic foot per second will be diverted from Long Gulch into the conduit and the total amount conveyed to the "Rocky Diggins" mining claim within the NE $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 18 and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 17, T 33 N, R 9 W, M.D.M. where the water is to be used for mining purposes from November 1 to July 31 of each season and throughout the year as required for stock watering and domestic purposes. After use for mining purposes it is proposed to return the water to East Weaver Creek within the SE $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 18, T 33 N, R 9 W, M.D.B.M.

Protest

Arbuckle Brothers claim a right to 1000 miners inches of the waters of Brown Creek for mining and agricultural purposes which right is based upon use commenced prior to December 19, 1914, the effective date of the Water Commission Act. They allege in effect that the area of the watershed of Brown Creek is small and it is seldom there is sufficient water therein to supply their needs and should Application 10274 be approved it would only result in expensive litigation. They requested that an investigation be conducted by the Division.

Investigation

On June 3, 1942, an investigation of the proposed development was conducted in the field by a representative of this office. Of this investigation applicants and protestants were duly notified and urged to be present or represented.

Stipulated Hearing

Stipulations under Regulation 12B of the Rules and Regulations of the Division of Water Resources With Respect to Protests and Hearings were signed

by the attorney for the protestants and also by the applicants and have been approved by the Division of Water Resources. The records relied upon in the determination of the matter are contained in the complete file for Application 10274.

General Discussion

It appears from the report of the engineer who investigated the proposed development that the amounts of water sought to be appropriated are insufficient for the uses to which the water is to be applied. In fact, the nature of the conduits is such that the water will be entirely lost by evaporation, seepage and percolation before arriving at the place of use. The project is therefore not feasible and involves a wasteful method of diversion. Furthermore, Mrs. Joaquina Costa has denied applicants right of way across her lands.

Under date of September 12, 1942, applicants informed this office that they were unable to complete their "agreement regarding water right" due to War conditions but hoped that sometime in the future arrangements for a water right could be made. Apparently therefore the proposed development has been abandoned.

ORDER

Application 10274 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, a protest having been filed, a field investigation by the Division of Water Resources having been made and a stipulated hearing having been held in accordance with Regulation 12B of the Rules and Regulations of the Division of Water Resources, and the Division of Water Resources now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 10274 be denied and the said application be cancelled upon the records of the Division.

WITNESS my hand and the seal of the Department of Public Works of

of the State of California this *18th* day of *Sept.* 1942.

EDWARD HEATT, State Engineer

By *Harold Conkling*
Deputy State Engineer

